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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **AT SEATTLE**

10 IQUIQUE U.S., LLC,
11 a Washington limited liability company,

12 and

12 REBECCA IRENE VESSEL LLC
13 A Washington limited liability company,

14 Plaintiffs,

15 v.

16 LEVI DASYLVA,
17 individually

18 Defendant.

IN ADMIRALTY

No.

**COMPLAINT FOR DECLARATORY
JUDGMENT**

19 Plaintiffs Iquique U.S., LLC, and Rebecca Irene Vessel LLC make the following
20 complaint for declaratory relief:
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PARTIES

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1. Plaintiff Iquique U.S., LLC, is a Washington limited liability company with its principal place of business in Seattle, Washington. Plaintiff is the operator of the fishing vessel F/T REBECCA IRENE (O.N. 8519679) and the employer of her crew, including Defendant, at all times material hereto.

2. Plaintiff Rebecca Irene Vessel LLC is the owner of the fishing vessel F/T REBECCA IRENE (O.N. 8519679).

3. Defendant Levi Dasylva is a seaman who, on information and belief, currently resides in Seattle, King County, Washington. Defendant is a former employee of Plaintiff Iquique, U.S., LLC.

4. Defendant's employment with Plaintiff Iquique U.S., LLC, required Defendant perform the duties of a seaman aboard F/T REBECCA IRENE while she was afloat and operating in navigable waters. Defendant was employed by Plaintiff Iquique U.S., LLC, and worked aboard F/T REBECCA IRENE in 2015.

JURISDICTION AND VENUE

5. This action, arising out of an injury a seaman claims occurred aboard a vessel on the navigable waters of the United States, is an action in admiralty under Fed. R. Civ. P. 9(h) and the Court's jurisdiction over this action rests in 28 U.S.C. §1333(1).

6. This is an action for a declaratory judgment under 28 U.S.C. § 2201-2202 for the purpose of determining questions of actual controversy between the parties. Plaintiffs seek a declaratory judgment that the Release of All Claims against Plaintiffs executed by

1 Defendant is valid and enforceable and that Defendant is not entitled to any further amounts
2 from Plaintiffs.

3 7. Pursuant to 28 U.S.C. § 1391(b)(1), venue is proper in this Court, because the
4 Defendant resides in King County, Washington.

5 **FACTS**

6 8. Plaintiff Iquique U.S., LLC, employed Defendant as a processor aboard the
7 F/T REBECCA IRENE seasonally at various times during 2015.

8 9. The F/T REBECCA IRENE is a 140-foot steel hulled factory trawler with a
9 crew compliment of approximately 33. She fishes in the waters off the coast of Alaska.

10 10. On or about July 18, 2015, Defendant worked as a seafood processor aboard
11 F/T REBECCA IRENE.

12 11. On or about July 18, 2015, Defendant handled fish product in the scope of his
13 employment in the F/T REBECCA IRENE factory. While performing this work, a case of
14 fish fell on the small finger of Defendant's left hand.

15 12. Upon reporting of the incident, Defendant was provided with onboard medical
16 care and was taken to the Iliuliuk Clinic in Dutch Harbor, Alaska, on July 29, 2015, for
17 medical care. On that date, Douglas Nicholson, M.D. diagnosed an injury to Defendant's
18 extensor tendon, placed the finger in a splint, and recommended Defendant see a hand
19 specialist.

20 13. After Plaintiffs repatriated Defendant to Seattle, Defendant presented to Dr.
21 William Wagner, Jr. on August 7, 2015, at Seattle Hand Rehabilitation Clinic.
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1 14. Dr. Wagner opined Defendant appeared to have an old deformity near the tip
2 of the finger from a crush and is missing in part of his nail in that area. Dr. Wagner reviewed
3 x-rays and diagnosed a soft tissue mallet injury left small finger with history of previous P3
4 injury. He placed Defendant in a full-time extension splinting for six weeks.

5 15. Dr. Wagner opined that Defendant reached maximum medical improvement
6 on November 11, 2015.

7 16. On December 8, 2015, Dr. Wagner released Defendant to work as of January
8 1, 2016.

9 17. Plaintiffs paid Defendant maintenance of \$35.00 per day for each day from
10 July 30, 2015, through December 8, 2015. Defendant did not pay income tax on these
11 payments as it is not required.

12 18. Plaintiffs paid "cure" for all of Defendant's finger-related medical care from
13 July 18, 2015, through December 8, 2015.

14 19. Defendant received all maintenance and cure to which he is entitled.

15 20. On December 16, 2015, Defendant was provided with a document titled
16 "Rights of Seamen." A true and correct copy of this document is attached hereto as Exhibit
17 A.

18 21. The "Rights of Seamen" document provided to Defendant described in detail
19 Defendant's right to recover maintenance and cure, right to recover for the unseaworthiness
20 of the vessel, and the right to recover under the Jones Act.

21 22. Defendant signed the "Rights of Seamen" at the bottom of the document,
22 indicating he "read the above article entitled 'Rights of Seamen' and ... understood the
23

1 same.” Defendant also acknowledged reading the “Rights of Seamen” document “before
2 signing any release.”

3 23. Defendant read the “Rights of Seamen” document attached hereto as Exhibit
4 A.

5 24. Defendant understood the “Rights of Seamen” document attached hereto as
6 Exhibit A.

7 25. Defendant executed a document titled “Release of All Claims” on December
8 16, 2015.

9 26. A true and correct copy of the document titled “Release of All Claims”
10 referred to in the preceding paragraph is attached hereto as Exhibit B.

11 27. Defendant executed the subject “Release of All Claims” after reading the
12 “Rights of Seamen” document attached hereto as Exhibit A.

13 28. The “Release of All Claims” executed by Defendant provides in part:

14 I, Levi Dasyilva...residing at 2212 1st Ave. Rm. 215 Seattle, WA 98121...in
15 exchange for payment to me of **SEVEN HUNDRED AND FIFTY AND 0/100 US**
16 **dollars (USD \$750.00)**, which I acknowledge I have received, do hereby forever
17 release and discharge Glacier Fish Co. LLC, Iquique U.S. LLC, Rebecca Irene Vessel
18 LLC, the F/T “REBECCA IRENE”...of each and every right or claim which I now
19 have, or may hereafter have, because of any matter or thing which happened before
20 the signing of this paper; including any claim for damages, maintenance, wages, cure,
transportation, reimbursement, or expense, under any law of the United States or any
state, whether or not now in existence or known to me, or whether it develops or
becomes known to me in the future, which in any way arises out of or is connected
with my employment by Iquique U.S. LLC and Rebecca Irene Vessel LLC, onboard
the F/T “REBECCA IRENE” up to the signing of this and Release of All Claims.

21 29. The “Release of All Claims” also provided:

22 I consulted with multiple treatment providers regarding my medical condition and the
23 treatment required. I understand the advice I have received from the physicians, and
my decision to enter into this settlement is based on a full understanding of my

1 medical condition as explained to me by the physicians. At the same time, however, I
2 acknowledge that I may be injured more seriously than the physicians or I know, and
3 that my current condition could worsen in the future. I acknowledge also, that it is
4 my wish to settle this claim and sign this Release of All Claims at this time. I accept
5 the risk that I might be mistaken about the severity of my injury.

6 30. On the "Release of All Claims," Defendant wrote in answers by hand to a
7 series of printed questions in the document.

8 31. On the "Release of All Claims," in the space following the question "1. Have
9 you read the Release of All Claims & 'Rights of Seaman'?", Defendant wrote "Yes."

10 32. On the "Release of All Claims," in the space following the question "2. Have
11 these documents been read to you?", Defendant wrote "Yes."

12 33. On the "Release of All Claims," in the space following the question "3. If they
13 have been read to you, who read them?", Defendant wrote "Jeff."

14 34. "Jeff" as written in response to the third question on Defendant's Release of
15 All Claims referred to Plaintiffs' Claims Manager Jeff Gates.

16 35. On the "Release of All Claims," in the space following the question "4. What
17 is this document you are signing?", Defendant wrote "Release of all Claims."

18 36. On the "Release of All Claims," in the space following the question "5. Do
19 you know that signing this document entitled Release of All Claims ends EVERY claim you
20 may have for DAMAGES as well as for transportation, maintenance, cure, wages and all
21 other claims?", Defendant wrote "Yes."

22 37. Defendant dated and printed and signed his name on page 5 of the "Release of
23 All Claims" under a paragraph providing:

**I HAVE READ AND UNDERSTAND EACH AND EVERY TERM AND
WORD OF THIS RECEIPT AND RELEASE OF ALL CLAIMS. I
UNDERSTAND IT TO BE A FULL, FINAL, AND COMPLETE RELEASE**

1 **INCLUDING WAGES (EARNED AND UNEARNED), MAINTENANCE,**
2 **CURE, OR ANY OTHER CLAIM WHICH I MAY HAVE, AND I EXECUTE**
3 **THE RECEIPT AND RELEASE OF ALL CLAIMS VOLUNTARILY BY**
4 **SIGNING MY NAME BELOW.**

5 38. Defendant's execution of the Release of All Claims attached hereto as Exhibit
6 B was acknowledged before a Notary Public.

7 39. In executing the "Release of All Claims," Defendant forever released
8 Plaintiffs from all claims related to the finger injury Defendant claims he sustained in the
9 scope of his employment aboard F/T REBECCA IRENE on or about July 18, 2015.

10 40. Though he executed the Release of All Claims, Defendant now seeks
11 additional amounts from Iquique U.S. LLC and/or Rebecca Irene Vessel LLC, related to his
12 July 18, 2015, finger injury aboard F/T REBECCA IRENE. Specifically, Defendant seeks to
13 recover for the alleged unseaworthiness of F/T REBECCA IRENE and Plaintiffs' alleged
14 negligence under the Jones Act.

15 41. Defendant contends the Release of All Claims is not enforceable.

16 **CLAIM FOR DECLARATORY RELIEF—ENFORCEMENT OF**
17 **DEFENDANT'S "RELEASE OF ALL CLAIMS"**

18 42. Plaintiffs reassert all preceding paragraphs as if fully set forth herein.

19 43. Defendant freely executed the "Release of All Claims."

20 44. Defendant executed the "Release of All Claims" without deception.

21 45. Defendant executed the "Release of All Claims" without coercion.

22 46. Defendant executed the "Release of All Claims" with a full understanding of
23 his rights.

47. Defendant, nevertheless, presently contends the "Release of All Claims" is
unenforceable and should be set aside.

1 48. Based on the foregoing allegations, an actual controversy has arisen and now
2 exists between Plaintiffs and Defendant concerning whether the "Release of All Claims"
3 executed by Defendant on December 14, 2015, and attached hereto as Exhibit B is
4 enforceable.

5 49. Plaintiffs seek a declaration that the "Release of All Claims" executed by
6 Defendant is valid and enforceable.

7 WHEREFORE, Plaintiffs request the Court grant the following relief:

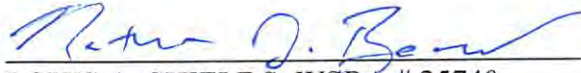
8 1. Enter judgment in favor of Plaintiffs declaring that the Release of All Claims
9 is valid and enforceable and that Defendant is not entitled to pursue any additional
10 maintenance and cure benefits or other claims for damages from Plaintiffs in consequence of
11 the alleged incident of July 18, 2015, or any other circumstance or event or manifestation in
12 his service of the F/T REBECCA IRENE.

13 2. Enter a judgment awarding Plaintiffs its fees and costs incurred in bringing
14 this action.

15 3. Award Plaintiffs such other and further relief as the Court deems just and
16 equitable.

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2 DATED this 28th day of March, 2018.

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